260515

FMCSA-2002-13589-2

ENVIRONMENAL ASSESSMENT
PARTS & ACCESSORIES NECESSARY FOR SAFE OPERATION; FUEL SYSTEMS

Notice of Proposed Rulemaking

I. Background

The National Environmental Policy Act of 1969 (NEPA), (42 U.S.C. § 4321, et seq., as amended) requires Federal agencies to consider the consequences of, and prepare a detailed statement on, all major Federal actions significantly affecting the quality of the human environment.

FMCSA is proposing to: (1) eliminate a conflict between the Federal Motor Carrier Safety Administration (FMCSA) regulations applicable to interstate motor carriers and the Environmental Protection Agency (EPA) regulations applicable to vehicle manufacturers and certain fuel dispensing pumps by revising requirements concerning fuel tank fill rates for certain gasoline- and methanol-fueled vehicles contained in Subpart E of the Federal Motor Carrier Safety Regulations (FMCSRs); (2) provide an exception for motor carriers operating certain motor vehicles that do not comply with FMCSA's current fuel tank fill-rates, but would comply with the proposed fill rate, and (3) eliminate redundancy with a National Highway Transportation Safety Administration (NHTSA) regulation on fuel system integrity (49 CFR § 571.301 applicable to manufacturers of certain vehicles.

We developed this environmental assessment (EA) to determine the effects of these proposed regulations concerning commercial motor vehicles operated in interstate commerce on the environment and whether a more comprehensive environmental impact statement (EIS) may be required. If, on the basis of this EA, the FMCSA determines that a full EIS is not required, the agency may make a finding of no significant impact (FONSI) briefly explaining why an action will not have a significant effect. On the other hand, if after completion of the EA, the FMCSA determines that an EIS is required, an EIS shall be prepared for any proposed major Federal action significantly affecting the environment. The FMCSA could also determine to withdraw the proposal on the basis of anticipated environmental impacts.

Even though one element of the Proposed Action would change the FMCSA's fueling rate requirement for gasoline- and methanol-fueled vehicles, our preliminary environmental impact analysis of the Proposed Action and Alternatives is that these provisions would not affect motor carrier operations. Generally, the vehicles affected are fueled at locations that are subject to the EPA's regulations on dispensing rates for gasoline and methanol fuel. The vehicles themselves are already in compliance, or will be manufactured in compliance with the EPA's phase-in schedule concerning on-board vapor recovery and prevention of fuel spitback. The FMCSA's preliminary assessment

is that this element of the Proposed Action is therefore unlikely to affect air quality, land use, water quality, or health and safety. This EA presents the results of the agency's analysis and provides a basis for the FMCSA to determine whether the potential effects of the Proposed Action(s) and Alternatives warrant consideration in an EIS.

Although the Proposed Action and Alternatives could potentially affect motor carriers' operations (e.g., by changing the time needed to fill the fuel tanks of gasoline- and methanol-fueled commercial motor vehicles (CMVs)), the potential environmental impacts of the various EPA rules that form the basis for the FMCSA's Proposed Action concerning fuel tank fill rates have previously been addressed by the EPA. In addition, FMCSA received no comments concerning potential adverse environmental consequences of issuing exemptions for gasoline-fueled CMVs that complied with the EPA fill-rate requirements rather than the FMCSA's requirements.

Concerning the cross-reference to the fuel system integrity standard that is an element of the Proposed Action, the NHTSA has previously analyzed the potential environmental impacts of the fuel system integrity standard of Federal Motor Vehicle Safety Standard (FMVSS) 301 and determined that it would not have a significant impact on the human or natural environment. The FMCSA would simply cross-reference this regulation. The CMVs that would be subject to this regulation are manufactured, and future vehicles would be manufactured, in compliance with the NHTSA standard.

II. Purpose and Need for Proposed Action(s)

1. Fuel Tank Fill Rate Discrepancy

The term "fuel tank fill rate" means the rate at which a vehicle can accept fuel. EPA sets this rate to make sure that the vapors from the fuel can be adequately absorbed by the charcoal canister on the vehicle's on-board emissions control system.

Section 393.67(c)(7)(ii) of Title 49, Code of Federal Regulations (CFR), requires the fill pipe and vents of a CMV with a fuel tank of more than 25 gallons of fuel capacity to permit the tank to be filled at a rate of at least 20 gallons per minute (gpm) without fuel spillage. (Another provision, § 393.67(c)(12), limits the amount of fuel to 95 percent of the tank's liquid capacity to prevent overfilling. The FMCSA does not plan to revise this provision.)

In addition to the safety regulations published by the FMCSA and the NHTSA, vehicles and internal-combustion engines are subject to environmental protection regulations published by the EPA under Title 40, CFR. The regulations concerning fuel dispensing rates are found in 40 CFR part 80, while those concerning control of on-board vehicle emissions are found at 40 CFR part

86. Occasionally, the regulations published by the EPA or other Federal agencies can have an influence on the safety regulations published by FMCSA, as in this case.

The conflict occurred when EPA issued regulations relevant to the fuel-tank fill rate issue. Although the EPA rules noted above address the reduction of emissions from vehicle fueling, they are relevant to the FMCSA safety regulations concerning fuel tank fill rates. This is because the EPA rules place a number of refueling regulatory requirements on various parties. These include: controls on the dispensing rate[1] of gasoline and methanol from pumps, the rate at which gasoline and methanol fuels can be accepted into the tanks of certain vehicles, the ability of the vehicle fuel systems to safely handle vapors released during fueling, and the ability of the fuel systems to safely prevent any spitback of fuel during the fueling process.

The four EPA rules are: (1) a final rule concerning evaporative emissions testing and fuel pump dispensing rates, issued March 24, 1993 (58 FR 16002), (2) a final rule concerning on-board refueling vapor recovery (ORVR) systems to control refueling emissions, published in the Federal Register on April 6, 1994 (59 FR 16262), (3) a final rule concerning Control of Emissions of Air Pollution From Highway Heavy-Duty Engines, published in the Federal Register on October 21, 1997 (62 FR 54693), and (4) a final rule for covering, among other things, on-board refueling vapor recovery (ORVR) systems for heavy-duty vehicles issued in October 6, 2000 (65 FR 59895).

The 1993 rule added § 80.22(j) to Title 40, CFR, setting a maximum dispensing rate of 10 gallons (37.9 liters) per minute for most gasoline and methanol pumps, effective January 1, 1996. Certain facilities with low sales volume were given two additional years to comply with this latter requirement. The 1993 rule also added new regulations which address, among other things, the standard for the fuel-dispensing spitback test for 1996 and later model year light-duty vehicles (0-6000 lbs gross vehicle weight rating (GVWR) (§ 86.096-8), 1996 and later model year light-duty trucks (6,001-8,500 lbs GVWR) (§ 86.096-9), and 1996 and later model year Otto-cycle (standard four-cycle electronic ignition) heavy-duty vehicles (8,501-10,000 lbs.) and engines (§ 86.096-10).

Thus, there is a discrepancy in the two sets of Federal agency regulations — the FMCSA requirements specify a fuel tank fill rate for all CMVs, regardless of the fuel used, of 20 gpm while EPA's regulations limit gasoline dispensers and light weight vehicles to receiving 10 gpm. The FMCSA's regulations on CMV fuel systems predate the EPA regulations by approximately 40 years (the FMCSRs in question were published in 1952[2]) and they did not address the

[1] "Fuel dispensing rate" is the rate that fuel comes our of the duel-pump's nozzle. EPA requires that the fuel flow at such a rate as to not overload the capacity of the vehicle's on-board emissions control system.
[2] FR Doc. 52-5382, May 14, 1952.

environmental concerns – namely, the unintentional release of fuel vapors and liquid fueling -- that were the focus of the EPA's series of rules on this subject.

The FMCSRs currently require that all vehicles with fuel tanks of 25 gallons capacity and higher – whether fueled by gasoline, methanol, or diesel – be capable of receiving fuel at the same rate — 20 gpm — an amount twice the maximum rate that EPA regulations allow gasoline (and methanol) pumps to dispense fuel. Continuing to require gasoline- and methanol-fueled vehicles to accept fuel at the FMCSR-mandated rate, rather than the EPA-mandated rate, would render these vehicles out of compliance with EPA regulations and would generate adverse environmental consequences.

The EPA's requirements that limit the rate for gasoline and methanol vehicles to accept fuel were set to allow the on-board vapor recovery systems to operate efficiently and adsorb fuel vapors. The EPA's fuel pump dispensing rates for gasoline and methanol were set to ensure that fuel is introduced into the vehicles at a rate that permits the on-board vapor recovery systems of these vehicles to operate properly. Forcing a gasoline- or methanol-fueled CMV to accept fuel at a higher rate than it is designed to accommodate (according to EPA's regulations) could result in overloading of the vapor recovery systems, resulting in gasoline or methanol vapors being released into the atmosphere. If the vehicle were to be fueled at a high rate during periods of high temperature, the buildup of vapor could be great enough to impede the proper flow of fuel into the tank, and the liquid and vapor could conceivably exit the fill port forcefully — thereby "spitting" back. This could generate adverse site-specific environmental consequences that would vary according to the number of vehicles fueled at a given site, the atmospheric conditions (ambient air temperature), and their proximity to places where people gather.

2. Addressing Current Exemptions

Codifying the change noted above would also address the continuing exemptions issued to automakers Ford Motor Company (Ford) and General Motors (GM) concerning lower than 20 gpm fill rates on certain vehicles. In 1999, Ford and GM filed applications for limited exemptions from this fuel system requirement. The design of several of their work trucks are based on a "light-truck" platform with load- or passenger-carrying capabilities that place them within the weight- or passenger-carrying thresholds of the FMCSRs. Due to their design, the gasoline versions of these vehicles could not meet the FMCSA requirement of 49 CFR § 393.67(c)(7)(ii). These particular vehicles were not required to accept fuel at the EPA's 10 gpm maximum rate (the EPA's requirements applied to vehicles up to 8,500 lbs GVWR.) However, these vehicles were (and are) required to comply with the EPA's 40 CFR part 86 requirements to prevent fuel spitback. More to the point, these vehicles are fueled at gasoline (or methanol) pumps dispensing fuel at a maximum rate of 10 gpm.

FMCSA issued initial exemptions to Ford and GM in 1999 and 2000, and renewed the exemptions in 2002. In those notices, FMCSA noted that the 20 gallon per minute rate, while appropriate for diesel fuel-powered vehicles, mandates that fill pipes on gasoline-powered vehicles be capable of receiving fuel at twice the maximum rate gasoline pumps are allowed, under EPA regulations, to dispense fuel.

No commenters have raised concerns about any potential environmental impacts that would result from the FMCSA's grant of the Ford and GM petitions, or for renewing them in 2002. The FMCSA does not believe that renewing the current exemptions, or codifying them in the FMCSRs, would have any significant impact on the environment.

3. Compliance with Federal Motor Vehicle Safety Standard (FMVSS) 301

In addition, the NPRM proposes to incorporate regulatory guidance previously issued by FMCSA concerning the applicability of the agency's fuel tank rules to vehicles subject to the NHTSA fuel system integrity standard at the time of manufacture. FMVSS No. 301 contains fuel system integrity requirements for passenger cars and multipurpose passenger vehicles, trucks, and buses that have a GVWR of 10,000 pounds or less and use fuel with a boiling point above 0 deg. Celsius (32 deg. Fahrenheit). Subpart E of part 393 was issued to provide fuel system requirements to cover motor vehicles with a GVWR of 10,001 or more pounds. FMVSS No. 301 adequately addresses the fuel systems of placarded motor vehicles with a GVWR of less than 10,001 pounds and compliance with subpart E of part 393 would be redundant. This element of FMCSA's proposal would explicitly acknowledge these vehicles' compliance with FMVSS 301 (49 CFR § 571.301), thus eliminating redundancy with NHTSA regulations, as explained in existing regulatory guidance published on April 4, 1997 (65 FR 16369, at 16417).

This proposed action would directly reference the NHTSA fuel system integrity regulations that are applicable to many of the smaller (that is, lower-GVWR) CMVs that are required to comply with the FMCSRs. This includes motor vehicles transporting placardable quantities of hazardous materials, as well as many small passenger-carrying CMVs. The NHTSA analyzed their rule under the NEPA and determined that it will not have a significant impact on the human environment (61 FR 19201, at 19202). The FMCSA's proposed action would not alter the design or operation of these vehicles. Thus, it is anticipated that there would be no measurable impact on environmental quality.

III. Description of Proposed Action(s), No Action, and Alternatives.

1. Proposed Action to Remove Discrepancy in Fuel Tank Fill Rates between FMCSA and EPA Regulations

To coordinate the FMCSA fill-rate regulations with the EPA dispensing and fill rates for light vehicles, FMCSA proposes to revise its regulations so as to align the fuel tank fill rate requirements of the FMCSRs with those of the EPA for gasoline and methanol-fueled vehicles up to 14,000 lbs. GVWR. Specifically, the FMCSRs would be changed to reference fill rates for light-, medium, and heavy-duty vehicles (as defined by EPA), required by the EPA under 40 CFR § 80.22. There would be no change proposed for diesel fuel-powered vehicles.

Revising the FMCSRs to reference the EPA's 1994 rule concerning on-board vapor recovery systems (and, indirectly, the EPA's 1993 rule on fuel pump dispensing rates that is integral to the ability of the on-board vapor recovery systems to operate properly) would make the FMCSA's regulation on fuel flow rates consistent with what the EPA determined, in their previous rulemakings, to be an appropriate flow rate that would reduce fueling emissions and prevent fuel spitback. EPA discussed at length the environmental benefits of the 10 gpm fill rate in their final rule issued March 24, 1993 (58 FR 16002). EPA discussed the environmental benefits of its 1994 rule in a Regulatory Impact Analysis available in that agency's public docket and summarized at 59 FR 16262, at 16279.

EPA implemented these rates to ensure that vehicles designed to prevent spitback during refueling at 10 gpm would not experience in-use fueling rates beyond the rate they were designed to accommodate. Also, a 10 gpm maximum fuel-dispensing rate is an inherent parameter for vehicles designed to meet onboard refueling vapor recovery (ORVR) emission standards. ORVR vehicles that are refueled at dispensing rates above 10 gpm would likely exceed ORVR emissions standards because the vehicle's carbon canister is not designed to adsorb hydrocarbon vapors satisfactorily at these higher dispensing rates. By eliminating this inconsistency, FMCSA would align its regulations with EPA's regulations developed to reduce harmful air emissions associated with gasoline and methanol fueling processes.

These vehicles in question are already being manufactured to comply with the EPA regulations, including the 10 gpm fill rate. The proposed revision to the FMCSRs would not require these vehicles to comply with a different fill rate, nor would they require any other modifications to the vehicles. The EPA has already assessed the environmental impacts of its 10 gpm fuel tank fill rate and the 10 gpm fuel pump dispensing rate and determined that they are beneficial. The proposed revision to the FMCSRs would not cause a change in the EPA's regulations, nor would it require a change in the design, operation, or fueling of these vehicles. It would simply acknowledge the existence of a different set of regulations for gasoline- and methanol-fueled vehicles, promulgated by the EPA

to improve air quality by reducing vapor emissions from refueling, which were not considered at the time the fuel tank fill rate provision was added to the FMCSRs in 1952.

The FMCSA described this situation in the notices concerning Ford's and GM's original requests for an exemption from the fuel tank labeling requirement of 49 CFR § 393.67. The agency described them again in notices proposing to renew those exemptions, and to include additional vehicles that had been brought into production since the original requests were made. No commenters advised the agency of any adverse environmental (or safety) consequences that would result if the agency granted – or renewed -- the exemptions.

A. No Action Alternative.

A No Action Alternative would result in no changes being made to the FMCSA's regulation concerning the rate that CMVs must accept fuel. The FMCSA's regulations would continue to be applicable to gasoline- and methanol-fueled vehicles that EPA requires to accept fuel at a lower rate, and which are fueled at pumps that the EPA requires to dispense fuel at a lower rate. Manufacturers of the fuel tanks used on commercial motor vehicles (as defined by the FMCSA) would continue to not be able to certify and mark their tanks as complying with FMCSA's requirements. Motor carriers operating these vehicles would be forced to apply for exemptions to the agency's fuel tank fill rates to avoid being cited for violating this element of the FMCSRs. However, the vehicles and their fuel systems would still comply with the EPA's on-board vapor recovery requirements, and they would still be fueled at gasoline- or methanol-dispensing pumps that supply fuel at the EPA's mandated maximum rate.

B. Other Alternatives.

Alternative B(1): A requirement to revise the FMCSA's fuel fill rate requirements for all vehicles to match the EPA's level for gasoline- and methanol-fueled vehicles could result in no discernable changes to the environment for those gasoline- and methanol-fueled vehicles already subject to the EPA's requirements. It could generate significant costs for motor carriers operating diesel-fueled vehicles because it would reduce by 50 percent the rate at which diesel fuel could be introduced, and double the time needed for fueling those vehicles. Diesel fuel has a lower level of vaporization than gasoline and methanol, and EPA recognized this when it determined that it was not appropriate to place limits on fuel fill rates for diesel-fueled vehicles. Since there are no safety or environmental concerns that would warrant such an action, the agency has decided not to pursue this option.

Alternative B(2): A requirement to set a fuel fill rate for all vehicles at a level greater than that set by the EPA for gasoline- and methanol-fueled vehicles, but less than that required by the FMCSA, could potentially generate adverse

environmental consequences because diesel-fueled vehicles are not currently subject to EPA rules concerning fill rates and vapor recovery. Therefore, lowering the fuel fill rate would increase the likelihood of diesel fuel spilling during refueling operations because the dispensing rate from the pump would exceed the rate at which the diesel fuel tank can receive fuel. The EPA set its 10 gpm fuel dispensing and fuel-acceptance (that is, filling) rates after considerable study and assessment. In the absence of research pointing to the environmental feasibility of a higher fuel-acceptance rate for gasoline and methanol-fueled vehicles, a change to increase that rate for vehicles subject to both the EPA and FMCSA's regulations would be arbitrary. As described in the other alternative above, the EPA had determined that it was not appropriate to place limits on the fuel fill rates for diesel-fueled vehicles. Since there are no safety or environmental concerns that would warrant such an action, the agency has decided not to pursue this option.

2. Proposed Action to Address Current Exemptions

We propose to make permanent the terms of the exemptions previously granted to motor carriers operating certain gasoline-fueled commercial motor vehicles manufactured by Ford Motor Company and by General Motors. This action would allow these vehicles to be excepted from certification labeling requirement. If the agency adopts the rule to remove the discrepancy between EPA and FMCSA rules, the vehicles in question would then meet all performance requirements under 49 CFR § 393.67, and all EPA rules. The only element of the rule that would not be satisfied would be the requirement for the manufacturer of the tank to mark it with a certification label that states that the fuel tank meets all the performance requirements. Rather than requiring motor carriers to have the fuel tanks of these vehicles retrofitted with certification labels, the agency believes it would be appropriate to amend the rules by codifying the portion of the current exemption dealing with the certification label requirements.

A. No Action Alternative.

FMCSA's No Action Alternative would be to continue to require motor carriers operating vehicles previously granted exemptions from the fill rate provision (e.g., Ford and GM) to apply for exemptions from the certification label requirement. It would result in no changes being made to the FMCSA's regulation concerning the rate that CMVs must accept fuel. The FMCSA's regulations would continue to be applicable to gasoline- and methanol-fueled vehicles that EPA requires to accept fuel at a lower rate, and which are fueled at pumps that the EPA requires to dispense fuel at a lower rate. However, the vehicles and their fuel systems would still comply with the EPA's on-board vapor recovery requirements, and they would still be fueled at gasoline- or methanol-dispensing pumps that supply fuel at the EPA's mandated maximum rate. Adoption of this No Action Alternative would continue to place a burden upon

the users of these vehicles, in that they must continue to apply to FMCSA for exemptions every two years, and for FMCSA to process the requests.

B. Other Alternatives.

Another alternative would be to require motor carriers to have the fuel tanks retrofitted with certification labels. This alternative would require those motor carriers operating the CMVs previously granted exemptions to retrofit certification labels on the fuel tanks of those vehicles. This would provide motor carrier safety officials the same type of certification documentation that is used on all other fuel tanks that are installed on CMVs subject to the § 393.67 requirements. However, there would be some complexity involved in retrofitting a label to a fuel tank that is installed in a vehicle, including gaining access to the tank, preparing its surface, and selecting a safe and effective method of affixing the label. As discussed above, the vehicles and their fuel systems would still comply with the EPA's on-board vapor recovery requirements, and they would still be fueled at gasoline- or methanol-dispensing pumps that supply fuel at the EPA's mandated maximum rate.

3. Proposed Action to Comply with FMVSS 301

In addition, the NPRM proposes to incorporate previously issued regulatory guidance concerning the applicability of the agency's fuel tank rules to vehicles subject to the NHTSA fuel system integrity standard at the time of manufacture. This proposal would explicitly acknowledge these vehicles' compliance with FMVSS 301, thus eliminating redundancy with NHTSA regulations. Thus, a vehicle would be exempted from the requirements of Subpart E of Title 49 CFR Part 393 if they met the requirements of 49 CFR § 571.301.

A. No Action Alternative.

A No Action alternative would justify FMCSA's continued reliance on the published regulatory guidance. FMCSA published Regulatory Guidance on this subject in the Federal Register on April 4, 1997 (65 FR 16369, at 16417). FMVSS No. 301 contains fuel system integrity requirements for passenger cars and multipurpose passenger vehicles, trucks, and buses that have a GVWR of 10,000 pounds or less and use fuel with a boiling point above 0 deg. Celsius (32 deg. Fahrenheit). Subpart E of 49 CFR part 393 was issued to provide fuel system requirements to cover motor vehicles with a GVWR of 10,001 or more pounds. FMVSS No. 301 adequately addresses the fuel systems of placarded motor vehicles with a GVWR of less than 10,001 pounds and compliance with subpart E of part 393 would be redundant. However, commercial motor vehicles that are not covered by FMVSS No. 301 must continue to comply with subpart E of part 393. The vehicles and their fuel systems would still comply with the NHTSA's FMVSS 301 requirements. (They would also continue to comply with EPA's on-board vapor recovery requirements, and they would still be fueled at

gasoline- or methanol-dispensing pumps that supply fuel at the EPA's mandated maximum rate.)

B. Other Alternatives.

Another alternative to the proposed action would be to amend the rule to make the de facto manufacturing standards under Part 393 applicable to the vehicles subject to FMVSS No. 301. FMVSS 301 is a performance standard that is required for vehicles up to 10,000 lb. GVWR. In contrast, the manufacturing standards under Part 393 are a combination of prescriptive and performance requirements that are required for vehicles used in interstate commerce that have a GVWR or GCWR of 10,001 lbs or more. There are no safety or environmental concerns that would warrant such an action.

IV. Affected Environment (Terrain Features, Population, etc.)

The proposal would affect all CMV operators of gasoline- and methanol-fueled vehicles except for those that are fueled at pumps dedicated exclusively to fueling heavy-duty vehicles, boats, or airplanes. We do not have a precise estimate of the number of CMVs involved in interstate commerce that would be subject to this proposed rule. However, the EPA addressed this in its analyses conducted as part of its 1993 and 1994 rulemaking activities. We do not expect that it would impact operators of gasoline and methanol CMVs because the majority of them are likely to be fueled at locations where the fueling rate of the pumps is limited to 10 gpm. We also do not anticipate that it would impact operators of diesel CMVs because it would not affect the FMCSRs applicable to diesel-fueled CMVs.

The EPA's analyses performed as part of its 1993 rulemaking activity used the MOBILE5 model to assess environmental effects from individual vehicles, applied on a nationwide basis. The EPA's analysis performed as part of its 1994 rulemaking considered both national and regional environmental effects and addressed potential air quality impacts in both attainment and nonattainment areas (59 FR 16262, at 16279). The gasoline- and methanol-fueled vehicles in question are operated nationwide. The FMCSA does not have data at a sufficient level of detail to determine the specific geographic distribution of motor carriers operating these vehicles. However, the proposed actions would not influence the way these vehicles are manufactured or operated.

V. Environmental Impacts of Proposed Action(s) and Alternatives

1. Fuel Tank Fill Rate Discrepancy

A. Proposed Action. The proposed revision to the FMCSRs would not require a change in the design, operation, or fueling of these vehicles. It would

simply acknowledge the existence of a different set of regulations for gasoline- and methanol-fueled vehicles, promulgated by the EPA to improve air quality by reducing vapor emissions from refueling, which were not considered at the time the fuel tank fill rate provision was added to the FMCSRs in 1952. FMCSA anticipates this proposed action would have no adverse environmental consequences. Any positive environmental consequences are already accounted for in EPA's analyses concerning its rules.

B. No Action. If the FMCSA were to take no action on this issue, the vehicles and their fuel systems would still comply with the EPA's on-board vapor recovery requirements, and they would still be fueled at gasoline- or methanol-dispensing pumps that supply fuel at the EPA's mandated maximum rate. Since the application of the EPA's regulations would not change, there would be no effect on the environment.

C. Other Alternatives. A requirement to set a fuel fill rate for all vehicles at a level greater than that set by the EPA for gasoline- and methanol-fueled vehicles but less than that required by the FMCSA could potentially generate adverse environmental consequences because diesel-fueled vehicles are not currently subject to EPA rules concerning fill rates and vapor recovery. Since there are no safety or environmental concerns that would warrant such an action, the agency has decided not to pursue this option.

2. Addressing Current Exemptions.

A. Proposed Action. Rather than requiring motor carriers to have the fuel tanks of these vehicles retrofitted with certification labels, the agency believes it would be appropriate to amend the rules by codifying the portion of the current exemption dealing with the certification label requirements. This proposed action would not change the vehicles, the manner in which they are fueled, or any other aspect of their operation. The FMCSA anticipates that there would be no environmental consequences associated with this proposed action.

B. No Action. A No Action Alternative would continue to require motor carriers operating vehicles previously granted exemptions from the fill rate provision to continue to apply for exemptions from the certification labeling requirement. The FMCSA's regulations would continue to be applicable to gasoline- and methanol-fueled vehicles that EPA requires to accept fuel at a lower rate, and which are fueled at pumps that the EPA requires to dispense fuel at a lower rate. However, the vehicles and their fuel systems would still comply with the EPA's on-board vapor recovery requirements, and they would still be fueled at gasoline- or methanol-dispensing pumps that supply fuel at the EPA's mandated maximum rate. Since the application of the EPA's regulations would not change, there would be no effect on the environment.

C. Other Alternatives. This alternative would require those motor carriers operating the CMVs previously granted exemptions to retrofit certification labels on the fuel tanks of those vehicles. The vehicles and their fuel systems would still comply with the EPA's on-board vapor recovery requirements, and they would still be fueled at gasoline- or methanol-dispensing pumps that supply fuel at the EPA's mandated maximum rate. Since the application of the EPA's regulations would not change, there would be no effect on the environment.

2. Alternative for Compliance with FMVSS 301.

A. Proposed Action. The FMCSA would incorporate previously issued regulatory guidance concerning the applicability of the agency's fuel tank rules to vehicles subject to the NHTSA fuel system integrity standard at the time of manufacture. This proposal would explicitly acknowledge these vehicles' compliance with FMVSS 301, thus eliminating redundancy with NHTSA regulations. Since this action would have no effect on the vehicles or their operation, and since that NHTSA has already determined that will not have a significant impact on the human environment, the FMCSA does not anticipate that this proposed action would have a significant impact on the human environment.

B. No Action. Continue to rely on the published regulatory guidance. FMCSA published Regulatory Guidance on this subject in the Federal Register on April 4, 1997. Since the application of the EPA's and NHTSA's regulations would not change, there would be no effect on the environment.

C. Other Alternative. Another alternative to the proposed action would be to amend the rule to make the de facto manufacturing standards under Part 393 applicable to the vehicles subject to FMVSS No. 301. As noted earlier in this document, FMVSS 301 is a performance standard that is required for vehicles up to 10,000 lb. GVWR. In contrast, the manufacturing standards under Part 393 are a combination of prescriptive and performance requirements that are required for vehicles used in interstate commerce that have a GVWR or GCWR of 10,001 lbs or more. There are no safety or environmental concerns that would warrant this action. The result would be that the application of FMCSA's, NHTSA's, and EPA's regulations would not change, and there would be no effect on the environment.

VI. Comparison of Proposed Action(s) and Alternatives

Fill Rate Discrepancy

The Proposed Alternative would simply acknowledge the existence of a different set of regulations for gasoline- and methanol-fueled vehicles, promulgated by the EPA to improve air quality by reducing vapor emissions from

refueling, which were not considered at the time the fuel tank fill rate provision was added to the FMCSRs. In contrast, the No-Action Alternative would continue to promulgate a rule that is in conflict with EPA regulations, and which places motor carriers whose gasoline- and methanol-fueled vehicles comply with the EPA regulations in a position of non-compliance with a FMCSA regulation. The other alternative, setting the same EPA-mandated fill rate for all CMVs, regardless of how they are fueled, is not warranted from the standpoints of safety nor environmental concerns. The Proposed Action is considered preferable, although neither it nor the No-Action Alternative would have differential effects on the environment. The EPA has already addressed fueling of diesel-powered vehicles and determined that rulemaking was not warranted. Based upon the EPA's earlier assessment, we believe that the Alternative Action would not be likely to have any effects on the environment.

Addressing Current Exemptions

The vehicles that are currently under FMCSA exemptions from the 20 gpm fill rates are types of vehicles likely to be refueled at stations that are limited by the EPA's 10 gpm fill rate. Making these exemptions permanent would have a negligible effect on the environment from current practices. By making the terms of the exemptions a permanent exception in the regulations would remove the periodic application for an exemption process saving on minor associated environmental costs (such as paper, mailing, etc.). The impact to the environment is minimal, though in a positive way by removing the need to continue the periodic exemption application process. The No-Action Alternative would also have minimal associated environmental impact, since it would continue to require motor carriers (or others acting on their behalf) to continue to request exemptions for the vehicles. The other alternative, requiring retrofitting of the certification labels for those vehicles that have been granted exemptions, could have some adverse environmental impacts as a result of the process of cleaning the area of the tanks where the labels would be affixed and affixing the labels with a chemical adhesive (emissions from cleaning solvents, emissions from adhesives).

Compliance With FMVSS 301

The proposed change would allow vehicles that meet the fuel tank requirements under § 571.301 to be excepted from the requirements of § 393.67. Currently, vehicles are required to meet both standards, although the requirements of § 393.67 are largely redundant, because the fuel system integrity requirements of § 571.301 adequately address the fuel systems of CMVs with a GVWR of up to 10,000 lbs. This proposed change would not affect the design of fuel systems because the requirements under § 571.301 are more exact. Neither the Proposed Alternative nor the No-Action Alternative would be anticipated to have any impact to the environment.

None of the proposed changes affects the environment in measurable ways from current practices.

VI. A List of Preparers, Reviewers, Agencies, and Persons Consulted. This document was prepared by D. M. Freund, FMCSA, with assistance from E. Walls, L.W. Minor, and M.M. Johnsen of FMCSA. Agencies and persons consulted include D. Goode of EPA concerning the EPA regulations.

VII. **References**: (1) EPA final rule concerning evaporative emissions testing and fuel pump dispensing rates, issued March 24, 1993 (58 FR 16002), (2) EPA final rule concerning on-board refueling vapor recovery (ORVR) systems to control refueling emissions, published in the Federal Register on April 6, 1994 (59 FR 16262), (3) EPA final rule concerning Control of Emissions of Air Pollution From Highway Heavy-Duty Engines, published in the Federal Register on October 21, 1997 (62 FR 54693), (4) EPA final rule for covering, among other things, on-board refueling vapor recovery (ORVR) systems for heavy-duty vehicles issued in October 6, 2000 (65 FR 59895); (5) FMVSS 301 (49 CFR § 571.301); FHWA [now FMCSA] regulatory guidance published on April 4, 1997 (65 FR 16369, at 16417); (6) NHTSA final rule containing most recent revision of 49 CFR 571.301 (61 FR 19201, at 19202).

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